



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

**TE/GE: EO Examinations
625 Fulton Street, Room 503
Brooklyn, NY 11201**

501.03-00

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

July 16, 2010

Number: 201040038

Release Date: 10/8/2010

LEGEND

ORG = Organization name

XX = Date Address = address

ORG

ADDRESS

Taxpayer Identification Number:

Person to Contact:

Identification Number:

Contact Telephone Number:

CERTIFIED MAIL

Dear :

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (the Code). Our favorable determination letter to you dated March 6, 20XX is hereby revoked and you are no longer exempt under section 501(a) of the Code effective January 1, 20XX.

You have failed to establish that you are operated exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3), and that no part of your net earnings inure to the benefit of private shareholders or individuals. You failed to respond to repeated reasonable requests to allow the Internal Revenue Service to examine your records regarding your receipts, expenditures, or activities and have failed to file information return Form 990 for year ended December 31, 20XX as required by I.R.C. sections 6001, 6033(a)(1) and Rev. Rul. 59-95, 1959-1 C.B. 627.

Contributions to your organization are no longer deductible under IRC §170.

You are required to file income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the tax year ending December 31, 20XX and for all tax years thereafter in accordance with the instructions of the return.

Processing of income tax returns and assessments of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination under the declaratory judgment provisions of section 7428 of the Code, a petition to the United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia must

be filed before the 91st Day after the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules regarding filing petitions for declaratory judgments by referring to the enclosed Publication 892. You may write to these courts at the following addresses:

You also have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Nanette M. Downing
Director, EO Examinations

Enclosure:
Publication 892



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service
10 MetroTech Center; 625 Fulton Street
Brooklyn, NY 11201
TEGE:EO: 7909---5th Floor

January 21, 2010

ORG
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear _____ :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M. Downing
Acting Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit A
Explanation of Items		
Name of Taxpayer ORG		Year/Period Ended 12/31/20XX

LEGEND

ORG = Organization name XX = Date

ISSUE:

Whether ORG (ORG) qualifies for exemption under section 501(c)(3) of the Internal Revenue Code as a public charity after failure to provide requested information.

FACTS:

ORG failed to respond to numerous correspondence sent to the organization by the Internal Revenue Service (the Service). The Exempt Organization Compliance Unit (EOCU) sent a letter to ORG dated September 12, 20XX.

The file was assigned to the Service's Exempt Organization Examination Division. The agent who was assigned the file sent the initial contact letter dated August 1, 20XX to the entity. The entity provided a response dated August 29, 20XX which included copies of the delinquent returns the entity stated were filed. However, the response omitted material information needed for the examination of the entity including the delinquent form 990 for the tax period ending 20XX12; the financial records for the tax period; Form 941 inquiry; etc. A follow-up Information Document Request (Form 4564, Request #2) was sent on September 5, 20XX. A request for an extension of time was made by the officials and granted until October 24, 20XX. No response was submitted by the entity and the official requested an extension of time until after the Thanksgiving holiday. Another follow-up Form 4564, Request #3, was issued extending the time to submit the request until December 5, 20XX. There was no response to the requests submitted by the entity. A special drafted 90-day letter was created on January 12, 20XX to submit the required information per Form 4564, Request #4.

Exhibit A provides copies of the Internal Revenue Service correspondence requesting that the organization file the delinquent Forms 990.

LAW:

Internal Revenue Code section 6001 provides that every person liable for any tax imposed by the Internal Revenue Code, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

Internal Revenue Code section 6033(a)(1) provides that every organization exempt from taxation under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit A
Name of Taxpayer ORG		Year/Period Ended 12/31/20XX

Federal Tax Regulations section 1.6001-1(e) states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained so long as the contents thereof may become material in the administration of any internal revenue law.

Federal Tax Regulations section 1.6033-2(i)(2) provides that every organization which is exempt from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status and administering the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and section 6033 of the Code.

Revenue Ruling 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of Internal Revenue Code section 6033 and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

In accordance with the above cited provisions of the Code and regulations under sections 6001 and 6033 as well as the revenue ruling, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

CONCLUSIONS:

It is the position of the Internal Revenue Service that the organization failed to meet the reporting requirements under IRC sections 6001 and 6033 to be recognized as exempt from federal income tax under IRC section 501(c)(3) as a private foundation. Accordingly, the organization's exempt status is revoked effective January 1, 20XX.